

**RECEIVED
CENTRAL FAX CENTER**

FEB 17 2006

ATTORNEY DOCKET NO. CREDIT/SCH
Serial No.: 09/690,074

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Scott C. Harris	Group Art Unit 2876
Appl. No.	:	09/690,074	
Filed	:	October 16, 2000	
For	:	INTELLIGENT CREDIT CARD SYSTEM	
Examiner	:	K. D. Nguyen	

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Applicants Brief On Appeal
Resubmitted 2-17-06

Sir:

Applicant herewith resubmits this Brief on Appeal, which was originally filed to perfect the Notice of Appeal which was originally filed on 1-31-05. While no formal requirement for Brief Resubmission has been mailed, the Examiner left a voice mail for the undersigned, requesting that the brief be resubmitted.

The Appeal Brief fee was PREVIOUSLY CHARGED.

CERTIFICATE OF FAX TRANSMISSION

I hereby certify that this correspondence and all marked attachments are being facsimile transmitted to the Patent and Trademark Office on the date shown below:

2/17/06

Date of Deposit

/SCH/

Signature

Scott C. Harris

Typed or Printed Name of Person

Appl. No. : 09/690,074
Filed : October 16, 2000

FEB 17 2006

The present application qualifies for small entity status under 37 C.F.R. § 1.27.

The headings and subject matter required by 37 CFR 41.37 follow.

Real Party In Interest

The inventor, Scott C. Harris, is the real party in interest.

Related Appeals and Interferences

There are no known related appeals and/or interferences.

Status of Claims

Claims 26-34, 38 and 40-46 are pending in the case. Claims 26-34, 38 and 40-43 are appealed. Claim 44-46 are not appealed herein.

Status of Amendments

No amendment was filed after the final rejection of paper number 041027.

Summary of Claimed Subject Matter

Claim 27 defines an electronic credit card, which has both electronic and analog portions. The credit card itself is in a housing with the front surface showing the credit card number, see generally Figure 3. A communication device is coupled with electronic circuitry in the housing and communicates by a short range RF protocol. See page 5, lines 10-14 and page 6 of the specification lines 6-9. The electronic circuitry also includes a memory that stores an individual characteristic representative of the authorized user, and that individual characteristic is a user's picture. The display displays the user's picture when a transaction is requested. See generally the last paragraph on page 15 of the

Appl. No. : 09/690,074
Filed : October 16, 2000

specification.

Claim 38 defines a credit card housing with the first surface bearing credit card indicia (see Figure 3 above); electronic circuitry within the housing associated with the credit card account page 5, lines 10-14, and that it also includes storing a picture and displaying a picture in response to a transaction see specification page 15 last paragraph.

Grounds of Rejection to be Reviewed on Appeal

The rejection of claims 27, 29-33, 38, 40, 42-43 over Pitroda in view of Nathans.

The rejection of claims 28, 41 and 46 over Pitroda in view of Nathans in view of Mikipaa.

The rejection of claim 34 over Pitroda in view of Nathans in view of Teicher.

Argument

Claims 27, 29-33, 38, 40 and 42-43 are rejected as being obvious over Pitroda in view of Nathans. With all due respect to the Patent Office's position, the rejection does not meet the Patent Office's burden of providing a prima facie showing of unpatentability.

Claim 27

Claim 27 first requires a credit card housing "having a front surface showing a credit card number". The rejection refers to Pitroda, and specifically to Figure 14 which allegedly shows the credit card number. However, Figure 14 is not a front surface showing the credit card, but rather is a "graphic image of the American Express card with appropriate user commands as shown in Figure 14", see column 13 line 67 and column 14 line 1 of Pitroda. This "graphic image" shown by Figure 14 is certainly not suggestive of claim 27's recitation

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

of "a front surface showing a credit card number". The claimed front surface with a credit card number facilitates using this card in legacy applications, that is with non-electronic credit card infrastructure. This is quite different than the subject matter of Pitroda, which could only be used with totally electronic applications, and whose front surface is merely a display. That display can be controlled, but it certainly is not a surface showing a credit card number, as claimed.

Claim 27 further requires communicating information using a short range RF protocol, and that the electronic circuitry includes a memory storing an individual characteristic of an authorized user of the credit card. Claim 27 further recites that the individual characteristic is a user's picture and that the picture is displayed "when a transaction is requested".

Pitroda teaches that a signature can be stored, in column 16 lines 60-65. Upon rereading Pitroda, it appears that there is also teaching that Pitroda's CIU unit can display "photographs". See generally column 12 lines 55-58.

The rejection combines Pitroda with Nathans. Nathans teaches a scrambled picture on an identification card. The scrambled image is scrambled by a program, see generally column 4 lines 41-46. The image can also be unscrambled and displayed on a CRT see generally column 5 lines 5-7. First, however, it should be noted that the combination of Pitroda with Nathans is wholly an improper combination for this purpose. A person having ordinary skill in the art would not consider that Pitroda's teaching of a memory storing various data could be modified by Nathan's teaching of a scrambled analog image printed on a credit card. Quite simply, the electronic memory of Pitroda is wholly inconsistent with the analog printed image of Nathans.

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

Moreover, even in the hypothetical combination were to be made, nowhere is there any teaching or suggestion in either reference, or in the combination thereof, that the display displays the user's picture "when a transaction is requested" as required by claim 27. The "when the transaction is requested" limitation is alleged by the rejection to be shown and disclosed by Pitroda's column 3 lines 62-65; and column 13 lines 22-37. The first cited portion simply describes the touch sensitive display that can display a replica of a credit card and a replica of the user's signature. Nowhere is there any teaching or suggestion that this is displayed "when a transaction is requested". Rather, column 3 beginning of line 65 appears to imply that this is done based on menus executed via the touch sensitive display. The second cited portion, column 13 lines 23-37 similarly lack suggestion of displaying the personal information "when the transaction is requested". Rather, this simply describes how to display the different items from a menu, and is not a description of how to display information when a transaction is requested.

Claim 27 recites displaying the user's picture, from the memory, when the transaction is requested. This has a number of advantages. Since the user's image is displayed when the transaction is requested, it is not necessary to be visible on the card. This prevents a user from attempting to disguise themselves inappropriately as the person on the card. The picture is displayed when the transaction is requested. This means that picture need not be displayed all the time; only when the transaction is requested.

Another aspect of this feature, however, is based on the way certain people view their own pictures. Many people are embarrassed by cards which include pictures, such as their driver's license and such. Some people think that the cards have a "bad picture" and they are embarrassed to show the picture. Claim 27 uses data representing a picture, but

Appl. No. : 09/690,074
Filed : October 16, 2000

the picture is shown responsive to a request for a transaction. Nowhere is there any teaching or suggestion of this in the cited prior art. Both Pitroda and Nathan are perfectly capable of displaying the picture in response to a request for a transaction, if appropriately programmed. However, they neither teach or suggest doing it. The hypothetical combination, therefore, might use a Pitroda type smartcard, along with Nathans's teaching of allowing the card to be placed into a picture descrambler at times. Nowhere is there any teaching or suggestion of displaying the image in response to a request for a transaction as claimed.

For these reasons, the cited prior art does not render obvious claim 27, and does not render obvious over the claims which depend therefrom. Certain dependent claims should be independently allowable.

Claims 32 and 33

For example, claim 32 defines that the electronic circuitry immediately begins operating upon detecting the external source of power. The rejection states generically that Pitroda teaches an internal source of power see generally page 3 of the last rejection. However nowhere is there a suggestion in Pitroda that any operation automatically begins upon detecting the external source of power. Rather, column 12 lines 49 of Pitroda explains that the software in the CIU recognizes the card and begins reading from the card. It teaches nothing about the card automatically beginning its operation upon detecting an external source of power, as required by claim 32.

Claim 33 should be independently allowable for analogous reasons.

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

Claim 34

Claim 34 requires raised lettering indicating the credit card number. As explained above, Pitroda teaches only displaying an image of an American Express card. It teaches absolutely nothing about raised lettering, rendering claim 34 even further allowable.

Claim 34 was further rejected based on Teicher. With all due respect, the combination of Pitroda and Nathans further in view of Teicher is an improper combination. Both Pitroda very clearly states displaying an electronic image. Since Pitroda intends for an electronic image of the credit card number to be displayed, one having ordinary skill in the art would not be motivated to combine this with another reference that showed analog lettering on such a credit card. Such would seem to be superfluous, and is completely contrary to Pitroda's teaching, that requires everything to be electronic.

Even assuming that Pitroda could be combined with Teicher, Teicher does not teach raised lettering on the electronic credit card as claimed. Teicher does teach printing the numbers, and teaches that the numbers can be "embossed" see the bottom of column 1. However, there is no teaching or suggestion of raised lettering.

An traditionally cited reference to Mikipaa does teach Bluetooth communication, but each of the claims rejected over this additionally cited reference, such as claim 28, should be allowable by virtue of their dependency on the parent claims.

Claim 38

Claim 38 requires a credit card housing and electronic circuitry including a memory that stores information about the user's picture. Claim 38 defines that the housing

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

"displays said user's picture on an electronic display in response to a transaction". As described above, the limitation of "in response to a transaction" is not suggested by any of the cited prior art. Moreover, the combination of Pitroda and Nathans is wholly an improper combination. Therefore, claim 38 should be allowable for these reasons.

Claim 43

Claim 43 requires that the communication device immediately starts operating upon receiving the external source of power. The patentability of analogous subject matter has been described above.

In summary of the above, the Patent Office has failed to meet their burden of providing a prima facie showing of unpatentability. For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance and that the Examiner's rejection should be reversed.

Please charge any fees due in connection with this response to Deposit Account No. 50-1387.

Respectfully submitted,

Date: Feb 17, 2006

/SCH/
Scott C. Harris
Reg. No. 32,030

Customer No. 23844
Scott C. Harris, Esq.
P.O. Box 927649
San Diego, CA 92192
Telephone: (619) 823-7778
Facsimile: (858) 678-5082

Appl. No. : 09/690,074
Filed : October 16, 2000

CLAIMS APPENDIX

27. An electronic credit card, comprising:
a credit card housing having a front surface showing a credit card number, and
having electronic circuitry coupled to said housing, associated with a credit card account
based on said credit card number;
a communication device, also coupled with said housing, and coupled with said
electronic circuitry in said housing, communicating information to and from said electronic
circuitry using a short range RF protocol'
wherein said electronic circuitry includes a memory storing an individual
characteristic representative of an authorized user of the credit card;
further comprising a display which displays said individual characteristic, and
wherein said individual characteristic is a user's picture, and said display displays said
user's picture when a transaction is requested.

28. A credit card as in claim 27, wherein said short range RF protocol is
Bluetooth.

29. An electronic credit card as in claim 27, further comprising an internal
source of power for said electronic circuitry and said communication device.

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

30. An electronic credit card as in claim 27, further comprising connections for an external source of power to drive said electronic circuitry and said communication device.

31. An electronic credit card as in claim 30, wherein said connections for an external source of power include external electrodes intended to be coupled to a source of power.

32. A credit card as in claim 31, wherein said electronic circuitry immediately begins operating upon detecting said external source of power.

33. A credit card as in claim 31, wherein said communication device attempts to communicate immediately upon receiving power from said source.

34. A credit card as in claim 27, wherein said front surface includes raised lettering indicating the credit card number.

38. An electronic credit card, comprising:
a credit card housing, having a first surface bearing credit card indicia, and including electronic circuitry coupled within said housing, said electronic circuitry associated with a credit card account associated with said credit card indicia, said electronic circuitry including a memory which stores information about the user's picture, and which displays said user's picture on an electronic display in response to a transaction.

Appl. No. : 09/690,074
Filed : October 16, 2000

40. A credit card as in claim 38, further comprising a communication device, also coupled with said credit card housing, and which communicates information to and from said electronic circuitry using a short range RF protocol.

41. A credit card as in claim 40, wherein said short range protocol is Bluetooth.

42. A credit card as in claim 38, further comprising an input portion on said credit card adapted for receiving an external source of power.

43. A credit card as in claim 40 , wherein said communication device immediately starts operating upon receiving said external source of power.

44. (Not appealed) A method, comprising:
storing credit card information electronically within a credit card sized and shaped housing; and
wirelessly communicating said credit card information to a receiving terminal as part of a request for transaction;
storing information of an authorized user's individual characteristics within a memory of said credit card, and using said information as part of said request for transaction; and
wherein said individual characteristics include a picture of the user, and said using comprises providing information from which said picture can be displayed.

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

45. (Not appealed) A method as in claim 44, wherein said wirelessly communicating is carried out using a short range RF protocol.

46. (Not appealed) A method as in claim 45, wherein said wirelessly communicating is carried out using Bluetooth.

Appl. No. : **09/690,074**
Filed : **October 16, 2000**

EVIDENCE APPENDIX: None

RELATED PROCEEDINGS APPENDIX: None